

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

SECOND REGULAR SESSION-1994

Legislative Document

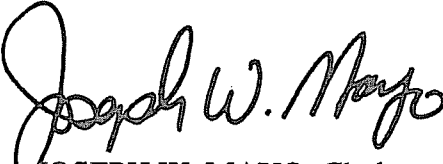
No. 1998

H.P. 1470

House of Representatives, March 31, 1994

An Act Authorizing a Tribally Owned Casino in the City of Calais.

Reported by Report "A" from the Joint Standing Committee on Judiciary pursuant to Joint Order H.P. 1416.


JOSEPH W. MAYO, Clerk

2 Be it enacted by the People of the State of Maine as follows:

4 PART A

6 Sec. A-1. 8 MRSA §275-D, sub-§§1 and 9, as enacted by PL 1993,
c. 388, §8, are amended to read:

8 1. Off-track betting on simulcast racing. A person may
conduct pari-mutuel wagering at a Class A restaurant, as defined
10 in Title 28-A, section 2, subsection 15, paragraph R, or at a
gaming facility licensed under Title 17, chapter 16 in this State
12 if the restaurant or the gaming facility is licensed as an
off-track betting facility under this section.

14 9. Annual report. The commission shall report annually by
16 January 1st to the joint standing committee of the Legislature
having jurisdiction over legal affairs matters and to the joint
18 standing committee of the Legislature having jurisdiction over
agricultural matters on the effect of off-track betting
20 facilities, including those located at gaming facilities licensed
under Title 17, chapter 16, on the local economy, the public
22 interest, the integrity of live racing and other matters the
commission finds appropriate. The commission may include in its
24 report any recommendations for necessary changes in laws
governing off-track betting.

26 Sec. A-2. 17 MRSA c. 16 is enacted to read:

28 CHAPTER 16

30 INDIAN GAMING

32 §361. Findings and purpose; tribal revenues

34 1. Opportunities. The Legislature recognizes the
36 importance of providing federally recognized self-governing
Indian tribes with improved opportunities for tribal
38 self-sufficiency and self-determination, and that there are 2
such tribes, the Passamaquoddy Tribe and the Penobscot Nation, in
40 this State.

42 2. Economic impact. The Legislature finds that Indian
gaming has been demonstrated to be an effective means of support
44 for tribal governments and programs and has provided economic
stimulus to many of the remote areas of the United States where
46 Indian tribes are now located, if the gaming is well managed and
well regulated. The Legislature further finds that the
48 Washington County area, where the Passamaquoddy Indian
Reservations are located, has long had a declining regional
50 economy, with few prospective economic opportunities.

2 a prize. "Bazaar game" does not include a lottery or any game,
3 amusement, contest or enterprise where the skill, accomplishment,
4 art or adroitness of the operator or participant is the primary
5 factor in the winning or awarding of a prize.

6 2. Electronic gaming device. "Electronic gaming device"
7 means any electrical device, contrivance or machine that, upon
8 insertion of a coin, currency, token or similar object, or upon
9 payment of any consideration, is available to play or operate and
10 the play or operation is dependent in whole or in part upon
11 chance, and that may deliver or entitle the person playing or
12 operating the machine to receive cash or tokens to be exchanged
13 for cash or to receive any merchandise or thing of value, whether
14 the payoff is made automatically from the machine or in any other
15 manner.

16 3. Enterprise. "Enterprise" means any individual, trust,
17 corporation, partnership or other legal entity of any kind other
18 than a tribal enterprise wholly owned by a tribe licensed under
19 this chapter. With respect to a corporation, the term
20 "enterprise" includes any other corporation or other legal entity
21 that, directly or indirectly, controls a majority of the voting
22 interests in the corporation. With respect to a partnership,
23 trust, or other form of unincorporated business organization, the
24 term "enterprise" includes any corporation or other legal entity
25 that, directly or indirectly, controls a majority of the voting
26 interests in that organization.

27 4. Gaming employee. "Gaming employee" means any natural
28 person employed in the operation or management of gaming
29 facilities licensed under this chapter, whether employed by the
30 tribal licensee or by any enterprise providing on-site services
31 to the tribal licensee within a gaming facility. "Gaming
32 employee" includes, but is not limited to, gaming facility
33 managers and assistant managers; accounting personnel; gaming
34 facility security personnel; gaming facility surveillance
35 personnel; credit executives; gaming facility cashier
36 supervisors; dealers or croupiers; box bosses; floorworkers; pit
37 bosses; electronic gaming device mechanics and attendants; shift
38 bosses; cage personnel; collection personnel; lottery ticket
39 sellers; persons employed in the acceptance or redemption of
40 pari-mutuel wagers; simulcasting equipment operators; computer
41 operators and technicians; food and beverage service personnel;
42 and any other natural person whose employment duties require or
43 authorize access to restricted areas of the gaming facilities not
44 otherwise opened to the public. "Gaming employee" does not
45 include a State Police inspector or auditor who has access to
46 those restricted areas under section 368 or section 377.

47 5. Gaming equipment. "Gaming equipment" means a machine or
48 device that is specially designed or manufactured for use in the
49

2 operation of a licensed gaming activity under this chapter,
3 including, but not limited to, electronic gaming devices, lottery
4 tickets, lottery on-line computer equipment, lottery drawing
5 equipment and pari-mutuel electronic totalizator systems.

6 6. Gaming facility. "Gaming facility" means any room or
7 rooms in which gaming authorized under this chapter is conducted.

8
9 7. Gaming premises. "Gaming premises" means any building
10 containing a gaming facility.

11
12 8. Gaming school. "Gaming school" means any enterprise
13 organized to provide specialized training to gaming employees for
14 the conduct of gaming under this chapter, other than programs
15 operated by a tribal licensee, or the person or enterprise under
16 an approved contract to a tribal licensee, for the management of
17 the gaming facility.

18
19 9. Gaming services. "Gaming services" means any goods or
20 services provided to a tribal licensee under this chapter
21 directly in connection with the operation of gaming in a gaming
22 facility, including, but not limited to, maintenance or security
23 services for the gaming facility, junket services, gaming
24 schools, printing or manufacture of lottery or pari-mutuel
25 betting tickets, laboratory testing of gaming equipment,
26 including electronic gaming devices or lottery tickets, and
27 manufacture, distribution, maintenance or repair of gaming
28 equipment.

29
30 10. Indian tribe. "Indian tribe" or "tribe" means any
31 Indian tribe or nation of Indians that is recognized by the
32 Government of the United States as eligible for the services
33 provided by the United States to Indians and that possesses
34 substantial powers of self-government over Indian territory as
35 defined in Title 30, section 6205, title to which is either held
36 in trust by the United States for the benefit of the tribe or
37 held by the tribe subject to restriction by the United States
38 against alienation.

39
40 11. Institutional investor. "Institutional investor" means
41 any investment company registered under the Investment Company
42 Act of 1940, 15 United States Code, Sections 80a-1 to 80a-64, any
43 investment adviser registered under the Investment Advisers Act
44 of 1940, 15 United States Code, Sections 80b-1 to 80b-21, and
45 other types of institutional managers of pooled investment
46 resources approved by rule.

47
48 12. Junket services. "Junket services" means an
49 arrangement to facilitate the attendance at a gaming facility of
50 customers selected by reason of their propensity to gamble by
51 providing to those customers any consideration, including cash or

2 rebates or reduced charges for goods or services such as
3 transportation, lodging, food, beverages or entertainment.
4 "Junket services" does not include providing common
5 transportation to a gaming facility to the public without
6 limitation to selected customers.

7 13. Key employee. "Key employee" means any natural person
8 employed in the operation of licensed gaming in a supervisory
9 capacity or empowered to make discretionary decisions that
10 regulate gaming operations, including, but not limited to, pit
11 bosses, shift bosses, credit executives, casino cashier
12 supervisors, casino managers and assistant managers, and managers
13 or supervisors of casino security employees.

14 14. Lottery. "Lottery" means any game for which tickets
15 are sold, the winning ticket or tickets are secretly
16 predetermined or ultimately selected in a chance drawing and the
17 holders of winning tickets receive money or something of value.

18 15. Principal employee. "Principal employee" means any
19 employee of an enterprise contracting to manage a gaming facility
20 licensed under this chapter who, by reason of a management,
21 supervisory or policy-making position or other criteria
22 established by rules, holds or exercises authority sufficiently
23 related to the operation of licensed gaming so as to require
24 review by the Chief of the State Police in considering a gaming
25 facility management contract in the protection of the public
26 interest.

27 **§363. Legislative approval of location**

28 1. Legislative approval. An Indian tribe may not conduct
29 gaming authorized under this chapter without the enactment of
30 legislation approving a location. The legislative approval of a
31 location required by this section is essential to the conduct of
32 gaming under this chapter, but does not relieve the licensee from
33 the requirements of any other applicable state or local laws or
34 ordinances.

35 2. Passamaquoddy Tribe; Calais. Pursuant to subsection 1,
36 the Passamaquoddy Tribe is authorized to conduct gaming in any
37 one area not exceeding 100 acres in the City of Calais approved
38 for that purpose on or before December 31, 1995 by the Calais
39 City Council.

40 3. Geographic conditions. The location of a gaming
41 facility not authorized under subsection 2 may not be approved
42 under subsection 1 unless the following conditions are met at the
43 time of approval.

44

2 A. A gaming facility may not be located less than 75 miles
3 from a municipality with a population greater than 30,000 in
4 the State.

6 B. The unemployment rate in the county where the gaming
7 facility will be located must exceed 7% averaged over the 12
8 months before the first day of the legislative session at
9 which the legislation is introduced.

10 C. The gaming facility must be located closer to a
11 municipality with a population greater than 30,000 in
12 another state or country than it is to a municipality with a
13 population greater than 30,000 in this State.

14 **§364. Jurisdiction; law enforcement**

16 Legal jurisdiction and the law enforcement authority of the
17 State and a tribe holding a license under this chapter with
18 respect to any gaming conducted pursuant to this chapter are
19 allocated as set forth in the Act to Implement the Maine Indian
20 Claims Settlement. Each applicant for a license under this
21 chapter shall consult with the Bureau of State Police about law
22 enforcement, security and public safety arrangements with respect
23 to the gaming premises. The bureau and the applicant must agree
24 on those arrangements before issuance of a license under section
25 366.

26 **§365. Specified gaming legalized**

28 1. Permissible games. An Indian tribe, as defined in
29 section 362, may apply for a license to conduct any of the games
30 or activities identified in this section or identified by rule
31 within each of the following types of gaming:

32 A. Games of chance, including the following:

- 33 (1) Blackjack;
- 34 (2) Poker;
- 35 (3) Dice;
- 36 (4) Money-wheels;
- 37 (5) Roulette;
- 38 (6) Baccarat;
- 39 (7) Minibaccarat;
- 40 (8) Chuck-a-luck;

- 2 (9) Pan game;
- 4 (10) Over and Under;
- 6 (11) Horse Race game;
- 8 (12) Acey-deucey;
- 10 (13) Beat the Dealer;
- 12 (14) Bouncing Ball;
- 14 (15) Caribbean Stud Poker; and
- 16 (16) Red Dog Poker;
- 18 B. Electronic gaming devices in which the payback value of
20 each type of game offered by each device is at least 80%;
- 22 C. Any bazaar game, other than bingo or beano, not listed
24 in paragraph A, but only if conducted solely for merchandise
26 prizes;
- 28 D. Any lottery game conducted exclusively within the
30 licensed premises; and
- 32 E. Off-track betting pursuant to Title 8, sections 275-C
34 and 275-D.
- 36 2. Licensed gaming unrestricted. When licensed for a game
38 or activity, an Indian tribe may conduct the game or activity
40 without restriction as to number, hours or wagering.
- 42 3. Notice of odds. Language describing the theoretical
44 odds of the game must be prominently displayed at each game.
- 46 4. Prohibited gaming. A tribe, or any member or agent of a
48 tribe, may not conduct a form of gaming on the gaming premises
50 licensed under this chapter that is not:
- A. Expressly authorized by the terms of a license issued
 under this chapter; or
- B. Otherwise legal under state law.
5. Prohibition on attendance of minors. A person under 21
 years of age may not be admitted into any gaming facility or be
 permitted to place any wager, directly or indirectly, except that
 a person under the specified age may be employed in a gaming
 facility operated under this chapter if that person is not

2 employed in the serving of alcoholic beverages or in the conduct
3 of gaming.

4 6. Prohibition on gaming by gaming employees. A person
5 licensed as a gaming employee under section 370 may not place any
6 wager, directly or indirectly, or otherwise participate in gaming
7 at the gaming facility where the person is employed.

8 7. Off-track betting application required. An application
9 for a gaming license under section 366 must include a proposal to
10 conduct off-track betting.

11 §366. Gaming license

12 1. License application. An Indian tribe, as defined in
13 section 362, may apply to the Bureau of State Police for a
14 license to conduct any of the games identified in section 365 or
15 in implementing rules. With its application, the tribe must
16 produce information, documentation and assurances concerning:

17 A. The financial resources available to establish, operate
18 and maintain the proposed gaming premises, including all
19 financial backers, investors, mortgagees, bond holders, and
20 holders of indentures, notes or other evidences of
21 indebtedness, either in effect or proposed, that bear any
22 relation to the gaming operations proposed. Except with
23 respect to regulated banks and other licensed lending
24 institutions providing financing in the ordinary course of
25 business, these submissions must include bank references;
26 and those business or personal income and disbursement
27 schedules, tax returns and other reports filed with
28 governmental agencies, business or personal accounting and
29 check records and ledgers as are appropriate or requested.
30 Each applicant shall, in writing, authorize the examination
31 of all bank accounts and records considered necessary by the
32 Bureau of State Police;

33 B. The ability and experience of the applicant, by itself
34 or through contractual relationships, to successfully
35 operate the proposed gaming activities. The applicant shall
36 produce the names of all proposed key employees as they
37 become known, together with identifying personal information
38 and a description of their respective or proposed
39 responsibilities;

40 C. The good character, honesty and integrity of key
41 employees of the proposed gaming facility, and of any tribal
42 officials and tribal employees having direct authority over
43 gaming management or operations. The application must
44 include information pertaining to family, habits, character,
45 reputation, criminal and arrest record, business activities,
46

2 financial affairs and business, professional and personal
3 associates, covering at least the 10-year period immediately
4 preceding the filing of the application. Each applicant
5 must notify the Bureau of State Police of any civil
6 judgments obtained against any such person;

7
8 D. The history in other gaming jurisdictions of any person
9 or enterprise providing, writing or designing management
10 structures, security systems or internal operating controls
11 for the proposed gaming operations. With respect to that
12 person or enterprise, the applicant shall produce letters of
13 reference, when requested by the Bureau of State Police,
14 from the gaming or casino enforcement or control agency from
15 those jurisdictions. The letters of reference must specify
16 the experiences of the agency with the person or enterprise,
17 the person's associates and the person's gaming operation.
18 If no such letters are received within 60 days of request,
19 the applicant may submit a statement under oath that the
20 person or enterprise is or was in good standing with the
21 gaming or casino enforcement or control agency in the
22 requested jurisdiction; and

23
24 E. A full description of the management structures,
25 security systems and internal operating controls and
26 standards under which the proposed gaming will be conducted.

27
28 2. Licensing criteria. The Bureau of State Police shall
29 determine, as soon as practicable after receipt of a completed
30 application, whether each of the following criteria is satisfied.

31
32 A. The sources and means of financing the proposed gaming
33 premises are sufficient to reasonably ensure the financial
34 stability, integrity and responsibility of the gaming
35 operations proposed and the applicant has or will have
36 adequate financial resources to establish, operate and
37 maintain the proposed gaming premises.

38
39 B. The proposed gaming will be conducted by persons with
40 sufficient business ability and gaming experience to
41 establish the likelihood that a successful, efficient gaming
42 operation will be created and maintained.

43
44 C. The key employees of the proposed gaming facility and
45 any tribal officials and tribal employees having direct
46 authority over gaming management or operations are persons
47 of good character, honesty and integrity.

48
49 D. Any person or enterprise providing, writing or designing
50 management structures, security systems or internal
51 operating controls for the proposed gaming operations who
52 has performed similar functions in any other gaming

2 jurisdiction is or was in good standing in that gaming
3 jurisdiction.

4 E. The management structures, security systems and internal
5 operating controls and standards under which the proposed
6 gaming will be conducted are adequate for the proper
7 operation of the gaming proposed and to carry out the
8 purposes set forth in section 361.

10 3. Issuance. If the Bureau of State Police finds that the
11 tribe's proposal satisfies the criteria of subsection 2, the
12 bureau shall promptly issue the tribe a license for the conduct
13 of gaming subject to the terms of the license and the provisions
14 of this chapter.

16 **§367. Management contracts**

18 1. Approval required. A written agreement between a gaming
19 licensee or a tribe, as defined in section 362, and any person or
20 enterprise for the management of a gaming facility is not valid
21 and enforceable unless submitted to and approved by the Bureau of
22 State Police. A management contract may not be approved unless:

24 A. Each director, each principal employee, each person who
25 directly or indirectly owns or controls more than 5% of the
26 managing enterprise and each person who in the opinion of
27 the Bureau of State Police has the ability to control the
28 contracting enterprise or elect a majority of its directors,
29 other than a banking or other licensed lending institution
30 that holds a mortgage or other lien acquired in the ordinary
31 course of business, is individually qualified for approval
32 as a key employee pursuant to the provisions of this chapter
33 or is an institutional investor exempted under subsection 2;

34 B. The contract provides for adequate accounting procedures
35 to be maintained, and for verifiable financial reports to be
36 prepared, by or for the tribal governing body on a monthly
37 basis;

38 C. The contract provides for minimum guaranteed payments to
39 the tribal licensee that have preference over the retirement
40 of development and construction costs;

41 D. The contract is for a definite term, not to exceed 7
42 years, sufficient to ensure reasonable continuity, stability
43 and independence in the management of the gaming; and

44 E. If the contract provides for the payment to the managing
45 enterprise of an interest or share of revenues or profits,
46 the payment does not exceed 40% of the net revenues of the
47 enterprise.

2 gaming enterprise, after deduction of all payments made on
4 wagers and of all ordinary and reasonable operating expenses
other than management fees, as those expenses are defined by
generally accepted accounting principles.

6 2. Institutional investors. An institutional investor
8 holding less than 10% of the equity securities of an enterprise
10 contracting to provide management services to a gaming licensee
12 under this chapter or holding debt securities consisting of less
than 20% of the total outstanding debt or less than 50% of any
issue of the outstanding debt of such an enterprise is exempt
from qualification under subsection 1 if:

14 A. The securities are those of a publicly traded
16 corporation;

18 B. The securities were purchased for investment purposes
20 only and the institutional investor has no intention of
22 influencing or affecting the affairs of the issuing
enterprise, other than by voting on matters put to the vote
of the holders of the securities; and

24 C. The Chief of the State Police has no reason to believe
26 that the institutional investor would be unqualified under
licensing standards for key employees.

28 The Chief of the State Police may require any institutional
30 investor claiming exemption under this subsection to file a
32 certified statement to the effect that the securities were
34 purchased for investment purposes only and that the institutional
36 investor has no intention of influencing or affecting the affairs
38 of the issuing enterprise, other than by voting on matters put to
40 the vote of the holders of the securities. If an institutional
42 investor changes its investment intent or if the Chief of the
State Police has reasonable cause to believe that the
institutional investor may be found unqualified, no action other
than divestiture may be taken by the investor with respect to its
security holdings in the enterprise until the directors, officers
and each person who directly or indirectly owns or controls more
than 5% of the institutional investor is found to be individually
qualified for approval as a key employee under this chapter.

44 **§368. State supervision of gaming operations**

46 1. Oversight. The Bureau of State Police has primary
48 responsibility for oversight of tribal gaming operations and
shall, for that purpose, employ nonuniformed inspectors who are
50 entitled to be present in all parts of any gaming premises during
all hours of operation. The tribal licensee shall provide the
bureau with copies of its gaming facility floor plans and
surveillance systems and confer with the bureau regarding the

2 adequacy of those plans and systems. Any tribe proposing to
3 operate or operating a gaming facility licensed under this
4 chapter may establish its own tribal gaming commission to provide
5 tribal oversight of tribal gaming operations, in cooperation with
6 the State Police and local law enforcement agencies.

7 2. Access. State Police inspectors must have unrestricted
8 access to all areas of the gaming premises at all times, without
9 prior notice, and personnel employed by the tribal gaming
10 operation shall for that purpose provide State Police inspectors
11 access to areas of the gaming premises that are locked and secure
12 in accordance with the standards and management structures
13 approved pursuant to section 366, subsection 2, paragraph E.

14 State Police inspectors may attend the regular count conducted by
15 the tribal gaming operation. Auditors employed by the State
16 Police must have unrestricted access for audit purposes during
17 ordinary hours of operation, without prior notice, to inspect and
18 copy all records of the tribal gaming operations, including
19 computer log tapes and cash transaction reports required to be
20 maintained under federal law, and personnel employed by the
21 tribal gaming operation shall for those purposes provide State
22 Police auditors access to areas of the gaming premises that are
23 locked and secure in accordance with the standards and management
24 structures approved pursuant to section 366, subsection 2,
25 paragraph E, except that all records of the tribal gaming
26 operations obtained by the State Police are confidential and
27 proprietary financial information belonging to the tribe and may
28 not be disclosed by the State without the express written consent
29 of the tribe.

30 A tribal licensee shall provide the State Police with access to
31 reasonable office space within the gaming premises for use of
32 their personnel for the purpose of oversight and audit
33 activities. Personnel employed by the State Police may not
34 interfere with the conduct of the tribal gaming operations except
35 as required to perform those functions provided for by law.

36 3. Investigation. The State Police may conduct
37 investigations it considers appropriate to investigate violations
38 of applicable law and for that purpose the Chief of the State
39 Police may issue subpoenas to compel the attendance of witnesses
40 and the production of evidence relevant to any fact at issue. If
41 a witness refuses to obey a subpoena issued by the Chief of the
42 State Police or to give any evidence relevant to proper inquiry
43 by the chief, the Attorney General may petition the Superior
44 Court in the county where the refusal occurred to find the
45 witness in contempt. The Attorney General shall cause to be
46 served on the witness an order requiring that witness to appear
47 before the Superior Court to show cause why that witness should
48 not be adjudged in contempt. The court shall, in a summary
49 order, find the witness in contempt and cause to be served on the
50 witness an order requiring that witness to appear before the

2 manner, hear the evidence and, if it warrants the court to do so,
4 punish the witness in the same manner and to the same extent as
for contempt committed before the Superior Court or with
reference to the process of the Superior Court.

6 4. Enforcement. The Bureau of State Police shall consult
8 frequently on an informal basis with the tribal gaming commission
10 or other designee of the licensee with respect to the conduct of
12 gaming and may provide written notice to the tribal licensee of
14 any violation, specifying the remedial action needed. As a
16 temporary remedy only, pending consultation with the licensee and
18 any remedial action by the licensee considered necessary, the
20 bureau has the authority to require the shutdown of any machine,
22 table or form of gaming for as long as the bureau has cause to
24 question the integrity of the gaming. The notice specified in
this subsection must be provided before the commencement of any
civil enforcement action against any licensee, whether
administrative or judicial. If a violation is not remedied to
the satisfaction of the bureau within 5 days from delivery of
written notice of the violation to the licensee, or any longer
time specified in the notice, the licensee is liable for a civil
forfeiture of \$500 per day thereafter. Any violation of this
chapter or its implementing rules or of the terms or conditions
of a license issued under section 366 may be enjoined in an
action for that purpose brought in the name of the State.

26 **§369. Rulemaking**

28 1. Authority. Following consultation with any Indian tribe
30 potentially affected, the Chief of the State Police may adopt
32 rules, under Title 5, chapter 375, that are necessary for the
34 administration and enforcement of this chapter and for the
36 licensing, conduct and operation of Indian gaming under this
38 chapter. These rules must have the sole purpose of protecting
40 the integrity of the gaming from the dangers of unfair or illegal
practices, methods or activities in the conduct of gaming and
decreasing the likelihood of criminal activity resulting from the
conduct of gaming under this chapter and must interfere as little
as possible with the efficient management of the gaming for the
benefit of the tribal licensee. The rules must include, but are
not limited to, provisions for:

42 A. The licensing of an Indian tribe, as defined under
44 section 362, for the conduct of specified gaming on lands
46 approved for that purpose under the terms of this chapter;

48 B. The individual licensing of all persons engaged in the
50 operation or management of tribal gaming, using licensing
requirements reflecting the different nature of the jobs;

2 C. The licensing of any enterprise providing gaming
services or gaming equipment to a tribal licensee;

4 D. Describing the criteria for licensing determinations to
be made under this chapter;

6

8 E. The identification by any tribal licensee of each
enterprise providing nongaming goods or services with an
expected value of more than \$50,000 per year and of any
10 labor union seeking to represent gaming employees. The
rules must require contracts between the tribal licensee and
12 those enterprises to give notice of the authority of the
State Police to investigate those enterprises, the
14 enterprises' duty to cooperate in any such investigation and
the authority of the State Police to bar an enterprise from
16 providing goods or services to the gaming operation;

18 F. The enforcement of this chapter, of implementing rules,
and of the terms and conditions of any license issued under
20 this chapter in accordance with section 368;

22 G. Preventing the practice of fraud or deception upon any
customers of the gaming facility;

24

26 H. Technical standards or specifications for gaming
equipment; and

28 I. The establishment of a list of persons who must be
excluded or ejected from any licensed gaming facility.
30 These provisions must define the standards for exclusion,
and must include standards relating to persons:

32 (1) Who are career or professional offenders;

34 (2) Who have been convicted of a criminal offense under
36 the laws of any state or of the United States that is
punishable by more than 6 months in prison or any crime
38 or offense involving moral turpitude; or

40 (3) Whose presence in a licensed gaming facility would,
in the opinion of the Chief of the State Police, be
42 inimical to the interest of the State or licensed
Indian gaming, or both.

44

46 Gaming licensees shall cooperate with the State Police in
maintaining a list of persons to be excluded from the gaming
facilities under these criteria and shall keep from their
48 premises persons known to them to be within the
classifications declared in this paragraph and the rules
50 adopted under this paragraph.

2 2. Change; consultation. After a hearing pursuant to the
Maine Administrative Procedure Act, a substantial change may not
4 be made to any proposed rule except after consultation with any
Indian tribe affected.

6 3. Tribal petition. Any Indian tribe potentially affected
by this chapter may petition the Chief of the State Police under
8 the Maine Administrative Procedure Act for the adoption,
amendment or repeal of any rule pertaining to gaming conducted
10 under this chapter. Notwithstanding the provisions of Title 5,
section 8055, the Bureau of State Police shall initiate
12 appropriate rule-making proceedings within 30 days after receipt
of such a petition pertaining to what gaming is authorized, the
14 technical standards or specifications of gaming equipment or the
rules of conduct of authorized gaming and shall conclude the
16 proceeding and issue its decision not more than 120 days after
receipt of the petition, unless the licensee consents to further
18 proceedings. When rulemaking is commenced in response to a
petition under this subsection, the Chief of the State Police
20 shall take rule-making action to accomplish the objective of the
petition, except when failure to do so is supported by a written
22 justification for the conclusion that the requested course or
action would threaten the integrity of the gaming at issue or
24 enhance the likelihood of criminal activity.

26 4. Schedule. Initial rules governing operation of a gaming
facility in the City of Calais by the Passamaquoddy Tribe must be
28 proposed no later than September 15, 1994 and adopted no later
than November 15, 1994.

30 **§370. Licensing of gaming employees and enterprises supplying**
32 **gaming services or equipment**

34 1. Requirement for employee licensing. A person may not be
employed as a gaming employee unless that person is the holder of
36 a valid gaming employee license issued by the Bureau of State
Police in accordance with the provisions of this section and
38 applicable rules.

40 2. Requirement for licensing providers of gaming services
or equipment. An enterprise may not provide gaming services or
42 gaming equipment to a tribal gaming facility unless the
enterprise is the holder of a valid gaming services license
44 issued by the Bureau of State Police in accordance with the
provisions of this section and applicable rules.

46 3. Fee for gaming services licensing. Any enterprise
48 filing an application for a gaming services license pursuant to
this section shall pay the Bureau of State Police a fee
50 established by the bureau and sufficient to compensate the bureau
for the costs of review of the license applications.

2 4. Procedure for license applications. The Chief of the
State Police shall develop appropriate license application forms
4 after consultation with Indian tribes affected by this chapter.
Each applicant for a license under this section shall submit a
6 completed license application to the Bureau of State Police, with
a copy to the tribe, on forms provided by the bureau. The
8 application must contain a statement by the tribe or licensed
gaming service enterprise that submission of the application is
10 approved. Each employee license application submitted to the
bureau pursuant to the provisions of this section must be
12 accompanied by the applicant's fingerprint card and photograph in
the form required by the bureau.

14 The application must contain, but is not limited to, the
16 following information regarding the applicant and, in the case of
an enterprise, each officer and director of the enterprise and
18 each partner or owner of any interest in the enterprise greater
than 5%:

20 A. Full name;

22 B. Full current address and addresses for the prior 5 years;

24 C. A record of previous gaming employment, gaming school
26 education and any issuance, refusal to issue and revocation
of a gaming license in any jurisdiction; and

28 D. Answers to the following questions posed in
30 substantially the following form.

32 (1) Have you ever been convicted of a crime in this or
34 any other jurisdiction that is punishable by
imprisonment for one year or more or adjudicated as
36 having committed a juvenile offense that involves
conduct that, if committed by an adult, would be
punishable by imprisonment for one year or more?

38 (2) Are you a fugitive from justice?

40 (3) Are you an illegal alien?

42 (4) Are you a drug abuser, drug addict or
44 drug-dependent person?

46 (5) Is there a formal charging instrument now pending
48 against you in this or any other jurisdiction for a
crime that is punishable by imprisonment for one year
or more?

50

2 (6) Is there a formal charging instrument now pending
3 against you in this or any other jurisdiction for a
4 juvenile offense that involves conduct that, if
5 committed by an adult, would be punishable by
6 imprisonment for one year or more?

7 (7) Have you been dishonorably discharged from the
8 military forces within the past 5 years?

9 (8) To your knowledge, have you been the subject of an
10 investigation by any law enforcement agency within the
11 past 5 years regarding the alleged abuse by you of
12 family or household members?

13 (9) Have you been convicted within the past 5 years of
14 crimes punishable by imprisonment of less than one year?

15 (10) Have you been adjudged within the past 5 years to
16 have committed juvenile offenses involving conduct
17 that, if committed by an adult, would be punishable by
18 imprisonment of less than one year?

19 (11) To your knowledge, have you engaged in the past 5
20 years in reckless or negligent conduct that has been
21 the subject of an investigation by a governmental
22 entity?

23 5. Signature as certification. The applicant, by signing
24 the application, certifies the following:

25 A. That the statements made in the application and any
26 documents made part of the application are true and correct;

27 B. That the applicant understands that an affirmative
28 answer to one or more of the questions in subsection 4,
29 paragraph D, subparagraphs (2) and (3) will result in
30 refusal to issue a license;

31 C. That the applicant understands that the answers to
32 questions in subsection 4, paragraph D are used by the Chief
33 of the State Police, along with other information, in
34 judging good moral character and an affirmative answer to
35 one or more of those questions may be cause for refusal to
36 issue a license; and

37 D. That the applicant understands that knowingly making any
38 false statement in the application or in any document made a
39 part of the application is grounds for a refusal to issue a
40 license or revocation or suspension of a license.

2 6. Consent to review of records. At the request of the
4 Chief of the State Police, the applicant shall take whatever
6 action is necessary to permit an examination of the accounts and
8 records in the applicant's possession, under the applicant's
10 control or under the control of 3rd parties but accessible by
12 consent of the applicant and shall authorize all 3rd parties in
14 possession or in control of those accounts or records to allow
16 the Chief of the State Police or the chief's designee to examine
18 the accounts and records as the Chief of the State Police
20 determines necessary to ascertain:

22 A. Whether the information supplied on the application or
24 in any documents made a part of the application is true and
26 correct;

28 B. Whether each of the requirements of this section has
30 been met; and

32 C. Whether the applicant meets the requirements for
34 licensure under this chapter.

36 The requirements of this subsection include the applicant taking
38 whatever action is necessary to permit the Chief of the State
40 Police or a designee to have access to confidential records held
42 by banks, the courts, law enforcement agencies and the military
44 for the purposes stated in this subsection.

46 7. Background investigation of applicants. A nontemporary
48 license may not be issued under this section without an
50 appropriate background check of the applicant, including the
52 applicant's previous experience with gaming in any jurisdiction.
54 For that purpose, any officials designated by the Chief of the
56 State Police from the Department of Public Safety or from any
58 official gaming commission of a tribe licensed under section 366
60 are authorized to obtain criminal records information maintained
62 by the Federal Bureau of Investigation or other federal agencies,
64 subject to applicable restrictions on the use and dissemination
66 of that information. If criminal history information is obtained
68 by designated tribal gaming commission officials, it must be
70 submitted to the Bureau of State Police with the application or
72 upon receipt of the information.

74 Upon receipt of an application for a gaming license that does not
76 include the necessary criminal history information, the Bureau of
78 State Police shall promptly cause both state and federal criminal
80 record checks to be done on the applicant to determine whether
82 the applicant or, in the case of an applicant that is an
84 enterprise, any of the applicant's officers, directors, partners
86 or owners has any criminal history. The State Police may
88 undertake any further investigation of the applicant and the
90 applicant's background it considers appropriate and shall, as

2 soon as is practicable after receipt of the completed license
3 application, report to the tribe to the extent permitted by law
4 on the results of the investigation.

6 8. Temporary licensing. Unless the state criminal record
7 check undertaken by the State Police within 10 days of the
8 receipt of a completed application discloses that a gaming
9 employee applicant has a criminal history, or unless other
10 grounds sufficient to disqualify the applicant pursuant to
11 subsection 9 are apparent on the face of the application, the
12 State Police shall, upon request of the tribal licensee involved,
13 issue a temporary gaming employee license to the applicant, which
14 expires upon the determination by the State Police of the
15 applicant's suitability for a gaming employee license.

16 Any provider of gaming services or equipment who submits a
17 completed application for a license under this section, together
18 with evidence of a valid nontemporary license issued by any other
19 gaming jurisdiction, approved for the purposes of this subsection
20 by rule of the Bureau of State Police if that license encompasses
21 or allows the provision of substantially similar gaming services
22 or equipment, must immediately be issued a temporary gaming
23 services license by the State Police pending determination of the
24 applicant's suitability or eligibility for a license as provided
25 in subsection 9.

26 The Bureau of State Police may, in the bureau's discretion, issue
27 a temporary license to any applicant for a gaming employee
28 license or for a license to provide gaming services or equipment,
29 based upon the applicant's prior licensing in any other gaming
30 jurisdiction.

31 9. Action by State Police. The Bureau of State Police
32 shall, as soon as is practicable after receipt of a completed
33 license application, either grant or deny the license based upon
34 the standards set forth in this subsection. An individual must
35 be issued a license to be a gaming employee if the individual:

36 A. Is of good moral character as determined pursuant to
37 subsection 10;

38 B. Is current in payment of all taxes, interest and
39 penalties owed to the State, excluding property taxes and
40 taxes, interest and penalties under formal dispute or appeal
41 pursuant to applicable statutes or being paid according to a
42 schedule approved by the taxing authority;

43 C. Has not been involved in any criminal activity or has
44 not been convicted of a crime punishable by one year or more
45 imprisonment in any jurisdiction unless at least 10 years
46 have elapsed since the conviction.

- 2 have passed since satisfactory completion of the sentence or
3 probation imposed by the court for the crime;
- 4 D. Has not been convicted of a violation of this chapter or
5 chapter 13-A or 14 or Title 17-A, chapter 39;
- 6 E. Is not a fugitive from justice, an illegal alien or a
7 person who was dishonorably discharged from the military
8 forces within 5 years prior to the date of application;
- 9 F. Has completed the application form and complied with the
10 requirements of subsection 6; and
- 11 G. Has not knowingly made a false statement of material
12 fact to the Chief of the State Police in applying for a
13 license under this chapter, chapter 13-A or chapter 14.

14 10. Determination of good moral character. The Chief of
15 the State Police shall make a determination of moral character
16 solely on the basis of information recorded by governmental
17 entities within 5 years of receipt of an application, including,
18 but not limited to, the following matters:

- 19 A. Information of record relative to incidents of abuse of
20 family or household members by the applicant, provided
21 pursuant to Title 19, section 770, subsection 1;
- 22 B. Information of record relative to convictions of the
23 applicant for crimes punishable by imprisonment for less
24 than one year or adjudications of the applicant for juvenile
25 offenses involving conduct that, if committed by an adult,
26 are punishable by imprisonment for less than one year;
- 27 C. Information of record indicating that the applicant is a
28 drug abuser, a drug addict or a drug-dependent person or has
29 engaged in reckless or negligent conduct;
- 30 D. Information of record relative to adjudications of the
31 applicant for civil violations; and
- 32 E. Information of record regarding charges against the
33 applicant for any crime in any jurisdiction.

34 11. Duration of license; renewal. Any gaming license
35 issued under this section by the Bureau of State Police is
36 effective for a term provided by rule of not less than one year
37 and not more than 3 years, except when revoked or suspended,
38 except that a licensee who has applied for renewal may continue
39 to be employed or to provide gaming services or equipment under
40 the expired license until final action is taken on the renewal
41 application by the bureau. Previously licensed applicants or

2 applicants for renewal under this section shall provide updated
4 application material but may not be required to resubmit
6 historical data already available to the State Police.
8 Additional background investigation of an applicant for renewal
10 may not be required unless new information concerning the renewal
12 applicant's continuing suitability or eligibility for a license
14 comes to the attention of the State Police.

16 12. Nontransferability. A license issued under this
18 section is not transferable or assignable.

20 13. Badges. All licensed gaming employees having access to
22 gaming facilities must, upon the commencement of employment, be
24 provided with identification badges as required by the State
26 Police. Badges must be displayed or carried by licensed
28 employees at all times within the gaming facilities. The tribe
30 shall employ its best efforts to recover badges from an employee
32 upon the termination of employment at a gaming facility.

34 14. Examination of prototypes. The Chief of the State
36 Police and the Attorney General shall examine, and the Chief of
38 the State Police may approve, prototypes of electronic gaming
40 devices and associated equipment necessary to the operation or
42 monitoring of the devices provided by manufacturers or vendors
44 seeking a license as required in this chapter. The Chief of the
46 State Police shall require the manufacturer or vendor seeking the
48 examination and approval of the electronic gaming device or
50 associated equipment to pay the anticipated actual cost of the
examination before the examination occurs. After the examination
occurs, the Chief of the State Police shall refund overpayments
or charge and collect amounts sufficient to reimburse for
underpayments of actual costs. The Chief of the State Police may
contract for the examinations of electronic gaming devices and
associated equipment as required by this section.

36 15. Registration of electronic gaming devices. An
38 electronic gaming device may not be placed in use or operated in
40 a gaming facility licensed under this chapter unless the device
42 is registered by the Chief of the State Police and employs a game
44 or games approved by the Chief of the State Police. The
46 registration must be prominently displayed on the device.

44 **§371. Actions relating to licenses**

46 1. Revocation or suspension of license; refusal to renew.
48 The Chief of the State Police may refuse to renew a license
50 issued under section 370 after a hearing in accordance with the
Maine Administrative Procedure Act. The Chief of the State
Police may suspend a license issued under section 370 for a
period of no longer than 90 days. The Administrative Court may
suspend or revoke a license issued under section 370. The Chief

2 of the State Police may suspend or refuse to renew, and the
3 Administrative Court may revoke or suspend, a license issued
4 under section 370 for just cause, which includes any of the
5 following:

6 A. The person made or caused to be made a false statement
7 of material fact in obtaining a license or in connection
8 with service rendered within the scope of the license issued;

10 B. The person or the person's agent violated a provision of
11 this chapter or a rule adopted under this chapter; or

12 C. The holder of a license becomes ineligible to hold that
13 license.

16 2. Ineligibility period following refusal to issue or renew
17 license or revocation of license. A person may not apply to the
18 Chief of the State Police for any license under section 370 for a
19 period of 2 years after the effective date of a refusal to issue
20 or renew a license or the revocation of a license issued under
21 section 370, except that the period of ineligibility terminates
22 immediately if the refusal or revocation is vacated or reversed
23 in later legal proceedings.

24 **§372. Investigation of nongaming employees and enterprises**

26 The Bureau of State Police may investigate misconduct of
27 persons who are not gaming employees but who are employed in
28 conjunction with any tribal gaming facility and those employees
29 must be dismissed from that employment upon notification to their
30 employer by the bureau that their conduct in the course of their
31 employment in those facilities poses a threat to the effective
32 regulation of gaming or creates or enhances the dangers of unfair
33 or illegal practices, methods and activities in the conduct of
34 gaming licensed under this chapter.

36 Any enterprise that is expected to provide goods or services
37 to tribal gaming operations authorized under this chapter, other
38 than gaming services or gaming equipment, in a total amount
39 exceeding the sum of \$50,000 in a single 12-month period or any
40 labor organization seeking to represent gaming employees must be
41 identified by the tribal licensee to the Bureau of State Police
42 and that enterprise or organization shall agree to cooperate with
43 the bureau in any investigation necessary relating to the fitness
44 of the enterprise or labor organization to engage in business
45 with a gaming operation or relative to the conduct of the
46 enterprise or labor organization in connection with licensed
47 gaming activity. The bureau may bar an enterprise from providing
48 goods or services to the gaming operation or a labor organization
49 from receiving dues from licensed employees at the gaming
50 facility or may bar the principal of any labor organization from

2 representing licensed gaming employees, if the enterprise or
4 labor organization refuses to cooperate with an investigation or
6 upon a determination that the enterprise or labor organization or
8 a principal of the enterprise or labor organization is a person
10 or entity whose prior activities, criminal record or reputation,
12 habits and associations pose a threat to the effective regulation
14 of gaming or create or enhance the dangers of unfair or illegal
16 practices, methods and activities in the conduct of gaming or
18 enhance the likelihood of criminal activity resulting from the
20 conduct of gaming under this chapter.

22 Every agreement within the scope of this section is deemed
24 to include a provision to the effect that, if the Bureau of State
26 Police exercises its authority under this section to bar
28 performance of the agreement, neither the licensee nor any agent
30 of the licensee who is a party to the agreement or any related
32 agreement has any civil liability as a result of the action of
34 the bureau. Failure to include such a provision in the agreement
36 does not constitute a defense in any action brought with respect
38 to the agreement.

40 **§373. Violations by licensees**

42 **1. Class C crimes.** A licensee commits a Class C crime if
44 the licensee, through its employees or agents, engages in the
46 following conduct and the conduct is authorized, requested,
48 commanded, performed or recklessly tolerated by the chair of the
50 licensee's tribal gaming commission or by the licensee's tribal
council or tribal gaming commission, acting within the scope of
the officials' office or employment and to the benefit of the
licensee:

32 **A. Conducts, carries on, operates or deals, or allows to be**
34 **conducted, carried on, operated or dealt, any cheating or**
36 **thieving game or device; or**

38 **B. Deals, conducts, carries on, operates or exposes for**
40 **play any game or games played with cards, dice or any**
42 **mechanical device, or any combination of games or devices,**
44 **that have in any manner been marked or tampered with, or**
46 **placed in a condition, or operated in a manner, the result**
48 **of which tends to deceive the public or tends to alter the**
50 **normal random selection of characteristics or the normal**
chance of the game so as to determine or alter the result of
the game.

42 **2. Class D crimes.** A licensee commits a Class D crime if
44 the licensee, through its employees or agents, permits a person
46 under 21 years of age to engage in gaming in a gaming facility
48 licensed under this chapter and the conduct is authorized,
50 requested, commanded, performed or recklessly tolerated by the

2 chair of the licensee's tribal gaming commission or by the
3 licensee's tribal council or tribal gaming commission.

4 **3. Individual action not necessary.** It is not a defense to
5 criminal liability under this section that the individual upon
6 whose conduct liability under this section is based has not been
7 prosecuted or convicted, has been convicted of a different
8 offense or is immune from prosecution.

10 **§374. Violations by managers**

12 **1. Class C crimes.** A natural person or enterprise under
13 contract to manage a gaming facility commits a Class C crime if
14 the person or enterprise, through its employees or agents,
15 engages in the following conduct and the conduct is authorized,
16 requested, commanded, performed or recklessly tolerated by the
17 person or by the board of directors of the enterprise or a high
18 managerial agent acting within the scope of the agent's office or
19 employment and to the benefit of the enterprise:

20 **A.** Conducts, carries on, operates or deals, or allows to be
21 conducted, carried on, operated or dealt, any cheating or
22 thieving game or device; or

23 **B.** Deals, conducts, carries on, operates or exposes for
24 play any game or games played with cards, dice or any
25 mechanical device, or any combination of games or devices,
26 that have in any manner been marked or tampered with, or
27 placed in a condition, or operated in a manner, the result
28 of which tends to deceive the public or tends to alter the
29 normal random selection of characteristics or the normal
30 chance of the game so as to determine or alter the result of
31 the game.

32 **2. Class D crimes.** A natural person or enterprise under
33 contract to manage a gaming facility commits a Class D crime when
34 the person or enterprise, through its employees or agents,
35 permits a person under 21 years of age to engage in gaming in a
36 gaming facility licensed under this chapter and the conduct is
37 authorized, requested, commanded, performed or recklessly
38 tolerated by the person or by the board of directors of the
39 enterprise or a high managerial agent acting within the scope of
40 the agent's office or employment and to the benefit of the
41 enterprise.

42 **3. High managerial agent.** For purposes of this section,
43 the term "high managerial agent" means an officer of a
44 corporation or any other agent of an enterprise having duties of
45 a degree of responsibility that the person's conduct may fairly
46 be assumed to represent the policy of the enterprise.

2 4. Individual action not necessary. It is not a defense to
3 criminal liability under this section that the individual upon
4 whose conduct liability under this section is based has not been
5 prosecuted or convicted, has been convicted of a different
6 offense or is immune from prosecution.

8 **§375. Violations by any person**

10 1. Class C crimes. A natural person who knowingly performs
11 any of the following acts commits a Class C crime:

12 A. Conducts, carries on, operates or deals, or allows to be
13 conducted, carried on, operated or dealt, any cheating or
14 thieving game or device;

16 B. Deals, conducts, carries on, operates or exposes for
17 play any game or games played with cards, dice or any
18 mechanical device, or any combination of games or devices,
19 that have in any manner been marked or tampered with, or
20 placed in a condition, or operated in a manner, the result
21 of which tends to deceive the public or tends to alter the
22 normal random selection of characteristics or the normal
23 chance of the game so as to determine or alter the result of
24 the game;

26 C. Tamper with an electronic gaming device with intent to
27 interfere with the proper operation of that device;

28 D. Manipulates or intends to manipulate the outcome, payoff
29 or operation of gaming equipment by physical tampering or
30 other means;

32 E. Wins or attempts to win money or property or a
33 representative of either or reduces a losing wager or
34 attempts to reduce a losing wager by any trick or sleight of
35 hand performance or by a fraud or fraudulent scheme, cards,
36 dice or device for that person or another person in
37 connection with gaming, where the value of the money,
38 property or representative is greater than \$1,000;

40 F. Uses or possesses on licensed gaming premises bogus or
41 counterfeit chips or gaming billets or substitutes or uses
42 in any licensed gaming activity cards or dice that have been
43 marked, loaded or tampered with;

46 G. Uses or possesses any cheating device with intent to
47 cheat or defraud;

48 H. Uses a coin or tender other than a lawful coin or legal
49 tender of the United States, or uses any coin not of the
50 same denomination as the coin intended to be used in any

2 slot machine in a licensed gaming facility, except that, in
4 the playing of any electronic gaming device, it is lawful
for any person to use gaming billets, tokens or similar
objects approved by the State Police;

6 I. Uses or possesses while on licensed gaming premises any
8 cheating or thieving device, including but not limited to
tools, drills, wires, coins or tokens attached to strings or
10 wires, or electronic or magnetic devices, to facilitate the
alignment of any winning combination or to remove from any
12 electronic gaming device any money or other contents, except
that a person employed in connection with a gaming facility
14 may possess and use any of the foregoing only as required in
the course of employment in the gaming facility; or

16 J. Uses or possesses while on licensed gaming premises any
18 key or device designed for the purpose of or suitable for
opening or entering any electronic gaming device or drop
20 box, except that an authorized employee or agent of the
licensee, the gaming commission of the licensee or the State
22 may possess and use any of the foregoing only as required in
the course of employment.

24 2. Class D crimes. A natural person who knowingly performs
any of the following acts commits a Class D crime:

26 A. Violating any provision of this chapter or any rule
28 adopted under this chapter for which a specific penalty is
not provided;

30 B. Winning or attempting to win money or property or a
32 representative of either or reducing a losing wager or
attempting to reduce a losing wager by any trick or sleight
34 of hand performance or by a fraud or fraudulent scheme,
cards, dice or device for that person or another person in
36 connection with gaming, where the value of the money,
property or representative is \$1,000 or less;

38 C. Entering any licensed gaming facility when listed among
40 those persons excluded from those facilities pursuant to any
rule of the Bureau of State Police;

42 D. Wearing or presenting an employee badge or a facsimile
44 of an employee badge in any licensed gaming facility when
not licensed as an employee of the tribe operating that
46 facility;

48 E. In playing a game in a licensed gaming facility, using
or assisting another person in the use of an electronic or
50 mechanical device that is designed, constructed or
programmed specifically for use in obtaining an advantage at

2 playing any game. A device used by any person in violation
3 of this section is subject to forfeiture;

4 F. Making any false statement or material omission in any
5 application or in any documents made a part of an
6 application for a license under this chapter; or

7 G. Permitting a person under 21 years of age to engage in
8 gaming in a gaming facility licensed under this chapter.

9 3. Continuing offenses. A violation of any of the
10 provisions of this chapter that is an offense of a continuing
11 nature is a separate offense on each day during which it occurs.

12 **§376. Authority to detain persons suspected of cheating; immunity**

13 A licensee or its officers, employees or agents may question
14 any individual in a licensed gaming facility reasonably suspected
15 of violating any of the provisions of section 373, subsection 1;
16 section 374, subsection 1; or section 375, subsection 1. A
17 licensee or an officer, employee or agent of the licensee is not
18 criminally or civilly liable by reason of any questioning under
19 this section.

20 A licensee or an officer, employee or agent of the licensee
21 who has probable cause to believe there has been a violation of
22 section 373, subsection 1; section 374, subsection 1; or section
23 375, subsection 1 in the gaming facility by any person may take
24 that person into custody and detain that person in the gaming
25 premises in a reasonable manner for a reasonable length of time
26 for the purpose of requiring the person detained to provide
27 identification, verifying the identification, notifying and
28 surrendering the person to law enforcement authorities and, when
29 the detained person is a minor, informing a law enforcement
30 officer or the parents or guardian of the minor of the detention
31 and surrendering the minor to the person so informed. The act of
32 taking into custody and detention under this section does not
33 render the licensee or its officers, employees or agents
34 criminally or civilly liable, including but not limited to
35 liability for false arrest, false imprisonment, slander or
36 unlawful detention, unless the taking into custody or detention
37 is unreasonable under all the circumstances.

38 A licensee or an officer, employee or agent of the licensee
39 is not entitled to any immunity from civil or criminal liability
40 provided in this section unless there is displayed in a
41 conspicuous manner in the licensee's gaming facility a notice in
42 boldface type clearly legible and in substantially this form:

43 "Any gaming licensee or any officer, employee or agent of a
44 gaming licenses who has probable cause to believe that

2 person is violating a provision of law prohibiting cheating
3 or swindling in gaming may detain that person in the
4 establishment for the purpose of notifying law enforcement
5 authorities."

6 **§377. Independent audit**

8 Each tribal licensee under this chapter shall cause its
9 licensed gaming operations to be subjected to an annual audit by
10 an independent certified public accountant in accordance with
11 procedures established by that accountant following consultation
12 with the State Police. Each audit must include any additional
13 procedures required by the State Police not otherwise required by
14 the independent auditor. Additional procedures required by the
15 State Police must be reasonable and necessary to gaming
16 regulation.

18 **§378. Smoking permitted**

20 Any general law or rule of the State or any political
21 subdivision of the State regulating smoking in places accessible
22 to the general public is inapplicable to any gaming facility
23 licensed under this chapter. This section does not restrict the
24 power of a tribal government to regulate or restrict smoking
25 within its Indian territory.

26 **§379. Transportation of gaming devices**

28 Pursuant to the provisions of 15 United States Code, Section
29 1172 governing the transportation of gambling devices in
30 interstate and foreign commerce, the State exempts from that
31 statute the transportation of any gambling device used or
32 intended for use at, and transported to or from, a gaming
33 facility licensed under this chapter.

36 **§380. Other laws; applicability**

38 Other laws providing any penalty or disability for the
39 conduct of games of chance or other gambling activity, or any
40 acts done in connection with gambling activity, do not apply to
41 games of chance or any other gambling activity authorized
42 pursuant to this chapter. This section does not constitute a
43 defense to any crime under the Maine Criminal Code.

44 **§381. Confidential records**

46 The following records and information furnished to the
47 Bureau of State Police or otherwise obtained by the State Police
48 in the administration of this chapter are confidential for
49 purposes of Title 1, section 402, subsection 3, paragraph A and
50 are not open for public inspection:

2 1. Personal information. All information and data
4 pertaining to an applicant's criminal history, personal and
 family history and personal background submitted or obtained in
 connection with the issuance of a license under section 370;

6
8 2. Financial information. Any financial statement,
 supporting information, assessment of credit or financial
 condition or tax return of any person, Indian tribe or enterprise;

10
12 3. Proprietary information. Any business or marketing plan
 of any person, Indian tribe or enterprise when the owner or
 subject of that plan has requested that it be designated
 confidential and any record or information that would be
 protected from public disclosure by the United States Securities
 and Exchange Commission;

16
18 4. Internal controls. Information concerning security
 systems and management controls of a facility licensed or
 proposed to be licensed under this chapter; and

20
22 5. Investigative records. All records, correspondence and
 reports of any allegation or investigation of any violation of
 this chapter, or of any rule or license issued under this
 chapter, but the confidential nature of the records,
 correspondence or reports does not limit or affect the use of
 those materials in any prosecution or civil or criminal
 enforcement proceeding.

28
30 **§382. Disclosure**

32 1. Gaming regulation or enforcement. Documents or
 information made confidential by section 381 may be disclosed
 upon request to a law enforcement agency of another jurisdiction
 engaged in the investigation or regulation of gaming, if the
 requesting agency certifies that it is entitled to maintain the
 information under confidentiality protections similar to those
 provided in this chapter.

36
38
40 2. Judicial proceedings. Documents or information made
 confidential by section 381 may be used in any judicial
 proceeding authorized by this chapter or disclosed pursuant to
 the terms of any subpoena, warrant or other judicial process, if
 the order or process has been first served upon the person or
 enterprise to whom the confidential information pertains or
 belongs and if the order or process appears on its face or
 otherwise to have been issued or made upon lawful authority.

2 **§383. Education and treatment**

4 Any contributions or payments, up to a total of \$50,000 per
6 year, made by a gaming operation under this chapter for use in
8 the education, prevention, treatment or aftercare of compulsive
10 or addictive disorders, including compulsive gambling, must be
12 considered an operating expense of the gaming operation, if the
14 contributions or payments for the programs are divided equally
16 between the tribal licensee and any public entity or nonprofit
18 organization providing those services in the county where the
20 licensed gaming premises are located. If no public entity or
22 nonprofit organization other than the licensee provides the
24 services in the county where the licensed gaming premises are
26 located, payments or contributions of up to \$50,000 in any year
28 to the tribal licensee must be considered an operating expense of
30 the gaming operation.

32 **§384. Approval of Governor**

34 **1. Conditions.** Prior to the issuance by the Bureau of
36 State Police of any gaming license under section 366, the
38 Governor must make a written finding that projects undertaken in
40 connection with the license will have a significant, favorable
42 and sustainable economic impact in the region in which it is to
44 be located. In connection with the issuance of that finding, the
46 Governor may consider the existence of such collateral economic
48 development obligations and conditions upon the licensee as the
50 Governor considers appropriate to ensure the economic stability
52 of the region where the proposed gaming facility is located. The
Governor may require the licensee to make such other investments
in the region, separate from the proposed gaming facility, as the
Governor considers appropriate, whether or not the investments
are directly related to the proposed gaming facility, except that
the total cost of such a commitment is not required to exceed
\$15,000,000 for projects not directly related to the proposed
gaming facility. These requirements may include requiring the
licensee to develop or cause others to develop hotel, educational
and recreational infrastructures prior to, at or after the
proposed gaming facility's opening.

2. Certificate of satisfaction. Until such time as the
Governor makes the finding described in subsection 1, the Bureau
of State Police may not issue a gaming license. If the Governor
issues such a finding subject to designated conditions, the
Bureau of State Police may not issue the gaming license until all
the designated conditions have been satisfied. A separate
certificate of satisfaction from the Governor is necessary to
determine whether the conditions have been satisfied and both the
finding and the certificate of satisfaction must exist and be
delivered to the Bureau of State Police before the license may be
issued.

2 Sec. A-3. 17 MRSA §3204, 2nd ¶, as amended by PL 1991, c. 315,
is further amended to read:

4 This section does not apply to: The the operation or
6 maintenance of common, contract and private carriers; taxicabs;
airplanes; newspapers; radio and television stations; hotels,
8 motels, rooming houses, and tourist and trailer camps;
restaurants; garages and motor vehicle service stations; retail
10 monument dealers; automatic laundries; machines that vend
money or service; a satellite facility approved by the
12 Superintendent of Banking under Title 9-B; or comparable facility
approved by the appropriate federal authority; pharmacies;
14 greenhouses; seasonal stands engaged in sale of farm produce,
dairy products, sea food or Christmas trees; public utilities;
16 industries normally kept in continuous operations, including, but
not limited to, pulp and paper plants and textile plants;
18 processing plants handling agricultural produce or products of
the sea; ship chandleries; marinas; establishments primarily
20 selling boats, boating equipment, sporting equipment, souvenirs
and novelties; motion picture theatres theaters; public dancing;
22 Indian gaming facilities licensed under chapter 16; sports and
athletic events; bowling alleys; displaying or exploding
24 fireworks, under Title 8, chapter 9-A; musical concerts;
religious, educational, scientific or philosophical lectures;
26 scenic, historic, recreational and amusement facilities; real
estate brokers and real estate sales representatives; mobile home
28 brokers and mobile home sales representatives; provided except
that this section does not exempt the businesses or facilities
30 specified in sections 3205 and 3207 from closing in any a
municipality until the requirements of those sections have been
32 met; stores ~~wherein~~ where no more than 5 persons, including the
proprietor, are employed in the usual and regular conduct of
34 business; stores which that have no more than 5,000 square feet
of interior customer selling space, excluding back room storage,
36 office and processing space; and stores with more than 5,000
square feet of interior customer selling space which that engage
38 in retail sales and which that do not require, as a condition of
employment, that their employees work on Sundays. If an employer
40 decreases the average weekly work hours of an employee who has
declined to work on Sundays, it is prima facie evidence that the
42 employer has required Sunday work as a condition of employment in
violation of this section, unless the employer and employee
44 agreed that the employee would work on Sundays when the employee
was initially hired. ~~In no event, however, may any~~ A store
46 having more than 5,000 square feet of interior customer selling
space may not be open on Easter Day, Thanksgiving Day and
48 Christmas Day.

50 Sec. A-4. 17-A MRSA §951, as amended by PL 1989, c.502, Pt.
A, §48, is further amended to read:

52

2
3 **§951. Inapplicability of chapter**

4 Any A person licensed by the Chief of the State Police as
5 provided in Title 17, chapter 13-A ~~or~~, chapter 14, or chapter 16
6 or who is authorized to operate or conduct a raffle pursuant to
7 Title 17, section 331, subsection 6, ~~shall be~~ is exempt from the
8 application of the provisions of this chapter insofar as that
9 person's conduct is within the scope of the license.

10 **Sec. A-5. 21-A MRSA §1015-A, sub-§2** is enacted to read:

11 2. Indian gaming operations. Any Indian tribe licensed
12 under Title 17, chapter 16 and its gaming enterprise, whether or
13 not incorporated, is considered a single entity for purposes of
14 any contribution to a political campaign governed by this chapter.

15 **Sec. A-6. 28-A MRSA §2, sub-§15, ¶I-1** is enacted to read:

16 I-1. "Indian gaming premises" means gaming premises as
17 defined in Title 17, section 362 that are operated by an
18 Indian tribe.

19 **Sec. A-7. 28-A MRSA §601, sub-§1, ¶D** is enacted to read:

20 D. If the applicant is a federally recognized Indian tribe,
21 it must hold a valid license issued under Title 17, chapter
22 16.

23 **Sec. A-8. 28-A MRSA §705, sub-§1, ¶A**, as amended by PL 1993,
24 c. 266, §9, is further amended to read:

25 **A. Credit may be extended:**

26 (1) By a hotel or club to bona fide registered guests
27 or members;

28 (2) By a hotel, Indian gaming premises or Class A
29 restaurant to the holder of a credit card that
30 authorizes the holder to charge goods or credits; and

31 (3) By an on-premise licensee or Indian gaming
32 premises to the host of a private, prearranged function
33 without a credit card.

34 **Sec. A-9. 28-A MRSA §1001, sub-§3, ¶H-1** is enacted to read:

35 H-1. Indian gaming premises:

36 **Sec. A-10. 28-A MRSA §1054, sub-§2-A** is enacted to read:

2 2-A. Exception. A licensee for the sale of liquor on
3 Indian gaming premises does not require a special amusement
4 permit for the conduct of any gaming licensed under Title 17,
5 chapter 16.

6 Sec. A-11. 30 MRSA §6205, sub-§1, ¶B, as amended by PL 1991,
7 c. 720, §1 and affected by §2, is further amended to read:

8
9 B. The first 150,000 acres of land acquired by the
10 secretary for the benefit of the Passamaquoddy Tribe from
11 the following areas or lands to the extent that those lands
12 are acquired by the secretary prior to January 31, 1991
13 2001, are not held in common with ~~any-ether~~ another person
14 or entity and are certified by the secretary by January 31,
15 1991 2001, as held for the benefit of the Passamaquoddy
16 Tribe:

17 The lands of Great Northern Nekoosa Corporation located in
18 T.1, R.8, W.B.K.P. (Lowelltown), T.6, R.1, N.B.K.P. (Holeb),
19 T.2, R.10, W.E.L.S. and T.2, R.9, W.E.L.S.; the land of
20 Raymidga Company located in T.1, R.5, W.B.K.P. (Jim Pond),
21 T.4, R.5, B.K.P.W.K.R. (King and Bartlett), T.5, R.6,
22 B.K.P.W.K.R. and T.3, R.5, B.K.P.W.K.R.; the land of the
23 heirs of David Pingree located in T.6, R.8, W.E.L.S.; any
24 portion of Sugar Island in Moosehead Lake; the lands of
25 Prentiss and Carlisle Company located in T.9, S.D.; any
26 portion of T.24, M.D.B.P.P.; the lands of Bertram C. Tackeff
27 or Northeastern Blueberry Company, Inc. in T.19, M.D.B.P.P.;
28 any portion of T.2, R.8, N.W.P.; any portion of T.2, R.5,
29 W.B.K.P. (Alder Stream); the lands of Dead River Company in
30 T.3, R.9, N.W.P., T.2, R.9, N.W.P., T.5, R.1, N.B.P.P. and
31 T.5, N.D.B.P.P.; any portion of T.3, R.1, N.B.P.P.; any
32 portion of T.3, N.D.; any portion of T.4, N.D.; any portion
33 of T.39, M.D.; any portion of T.40, M.D.; any portion of
34 T.41, M.D.; any portion of T.42, M.D.B.P.P.; the lands of
35 Diamond International Corporation, International Paper
36 Company and Lincoln Pulp and Paper Company located in
37 Argyle; and the lands of the Dyer Interests in T.A.R.7
38 W.E.L.S., T.3 R.9 N.W.P., T.3 R.3. N.B.K.P. (Alder Brook
39 Township), ~~T.3~~ R.4 N.B.K.P. (Hammond Township), T.2 R.4
40 N.B.K.P. (Pittston Academy Grant), T.2 R.3 N.B.K.P.
41 (Soldiertown Township), and T.4 R.4 N.B.K.P. (Prentiss
42 Township), and any lands in Albany Township acquired by the
43 Passamaquoddy Tribe before January 1, 1991; and any lands
44 not exceeding 100 acres in the City of Calais approved by
45 the legislative body of that city for acquisition by the
46 tribe.

47
48 Sec. A-12. 36 MRSA c. 373 is enacted to read:

49
50 CHAPTER 373

2 CASINO EXCISE TAX

4 §2881. Casino tax

6 1. Excise tax imposed. An excise tax is imposed on each
tribal licensee under Title 17, chapter 16. The tax is imposed
8 at the rate of 10% of gross gaming revenues for each licensed
tribe. The tax must be paid monthly based on gross gaming
10 revenues for the preceding month.

12 2. Gross gaming revenues. For purposes of this section,
"gross gaming revenues" means the total dollar value of all
14 receipts from licensed gaming pursuant to Title 17, chapter 16
reduced by the dollar value of all prizes or winnings paid as a
16 result of that gaming.

18 3. Additional payments. In addition to the tax imposed by
subsection 1, the following payments to the State Tax Assessor
20 are required.

22 A. Upon the first submission to the Bureau of State Police
of a petition for initial rulemaking under Title 17, chapter
24 16, a petitioner must make a one-time payment of \$115,000.

26 B. Upon submission to the Bureau of State Police of an
application for a gaming license under Title 17, chapter 16,
28 the applicant must pay \$1,385,000 in equal quarterly
installments, with the first payment due at the time of
30 submission of the application and each of the 3 subsequent
quarterly payments due 3 months after the previous
32 installment.

34 4. Exemption. A taxpayer under this section is allowed an
exemption from the excise tax on gross gaming revenues in the
36 following amounts.

38 A. For the 12-month period beginning with the first month
in which there are gross gaming revenues, the taxpayer is
40 entitled to a monthly exemption of \$2,084,000.

42 B. For the 13th to the 60th month after the first month in
which there are gross gaming revenues, the taxpayer is
44 entitled to a monthly exemption of \$833,333.

46 5. Carry forward of unused exemption amounts. Unused
monthly exemption amounts may be carried forward. The oldest
48 amount carried forward must be used to reduce gross gaming
revenues in the earliest subsequent month or months in which
50 gross gaming revenues exceed the exemption provided in subsection
4. An unused monthly exemption amount may not be carried forward
52 for more than 36 months.

2 6. Administration. The tax and the additional payments
imposed under this section must be administered in the same
4 manner as the tax imposed on taxable services under Part 3 unless
otherwise provided by this chapter.

6 7. Transfer. Amounts received by the State Tax Assessor
8 under this section must be deposited in the casino tax account.

10 §2882. Casino Tax Account

12 1. Casino regulatory costs. For the purposes of this
section, "casino regulatory costs" means the reasonable and
14 necessary costs of the State in administering the casino excise
tax, regulating gaming operations and conducting law enforcement
16 activities pursuant to Title 17, chapter 16.

18 2. Special account. The Treasurer of State shall establish
the Casino Tax Account, referred to in this section as the
20 "account," which is a special revenue account into which must be
deposited any receipts under section 2881 and from license fees
22 under Title 17, sections 366 and 370.

24 3. Purpose of account. Money in the account may be used
only to pay casino regulatory costs or to make payments to the
26 City of Calais or the Rising Tide Regional Development Program
Fund as provided in subsection 4.

28 4. Payments from account. Beginning with the month in
30 which there are revenues under section 2881, by the 15th day of
each subsequent month, the Treasurer of State, after reserving
32 the amount of additional payments received under section 2881,
subsection 3 and 1/12 of the amount allocated for that fiscal
34 year for casino regulatory costs plus any amount from a previous
month by which the available account balance was less than the
36 1/12 of casino regulatory costs and that was not reserved, shall
pay 35% of the balance in the account to the City of Calais and
38 65% of the balance in the account to the Rising Tide Regional
Development Program Fund established in Title 10, section 1076
40 until combined payments to the City of Calais and the Rising Tide
Regional Development Program Fund equal \$2,000,000 for the year.

42 If the total amount paid in the fiscal year to the City of Calais
44 and the Rising Tide Regional Development Program Fund is less
than the payment limit for that year, the payment limit in the
46 following year is increased by the amount of the deficiency.

48 Any remaining balance in the account must be transferred to the
50 General Fund.

2 **§2883. Application of other taxes**

4 For purposes of taxation under this Title and Title 28-A, a
6 tribal licensee under Title 17, chapter 16 is deemed to be acting
8 in a business capacity under Title 30, section 6208 but is not
10 subject to taxation under chapter 817 on income from gaming
12 activities licensed under Title 17, chapter 16.

14 **Sec. A-13. Tribal ratification.** That section of this Part that
16 amends the Maine Revised Statutes, Title 30, section 6205,
18 subsection 1, paragraph B does not take effect unless, within 60
20 days of the adjournment of the Legislature, the Secretary of
22 State receives written notification by the Joint Tribal Council
24 of the Passamaquoddy Tribe that the tribe has agreed to the
26 provisions of that section pursuant to 25 United States Code,
28 Section 1725(e)(1), copies of which must be submitted by the
30 Secretary of State to the Secretary of the Senate, the Clerk of
32 the House of Representatives and the Office of the Revisor of
34 Statutes.

36 **Sec. A-14. Maine Indian Tribal-State Commission.** At a meeting
38 held May 14, 1993, the Maine Indian Tribal-State Commission
40 recommended that land in the City of Calais be included in
42 Passamaquoddy Indian Territory for economic development purposes,
44 if the Calais City Council approves. On February 4, 1994, the
46 Maine Indian Tribal-State Commission voted to support the concept
48 of casino-based tribal initiatives to foster the economic welfare
of the tribes and the economic conditions within the State.

Sec. A-15. Allocation. The following funds are allocated from
Other Special Revenue to carry out the purposes of this Part.

1994-95

PUBLIC SAFETY, DEPARTMENT OF

Casino Tax Account

Positions	(17.0)
Personal Services	\$1,038,656
All Other	333,152
Capital Expenditures	247,750

Provides funds for one State Police
Lieutenant position, 2 Sergeant positions, 7
Detective positions, one Field Examiner III
position, 2 Field Examiner II positions, one
Clerk Steno III position and 3 Clerk Typist

2	II positions to regulate gaming operations and conduct law enforcement activities.	
4	DEPARTMENT OF PUBLIC SAFETY	
	TOTAL	<u>\$1,619,558</u>
6	ATTORNEY GENERAL, DEPARTMENT OF THE	
8	Administration - Attorney General	
10		
	Positions	(2.0)
12	Personal Services	\$101,601
	All Other	3,500
14	Capital Expenditures	2,500
16	Provides funds from the Casino Tax Account	
18	for one Assistant Attorney General position	
	and one Senior Legal Secretary position to	
20	provide legal services in support of the	
	Indian gaming legislation.	
22	DEPARTMENT OF THE ATTORNEY GENERAL	
	TOTAL	<u>\$107,601</u>
24	ADMINISTRATIVE AND FINANCIAL SERVICES,	
26	DEPARTMENT OF	
28	Bureau of Taxation	
30	Positions	(1.0)
	Personal Services	\$10,000
32	All Other	110,000
	Capital Expenditures	7,645
34	Provides funds from the Casino Tax Account	
36	for one Senior Revenue Agent position,	
	effective April 1, 1995, computer system	
38	modifications and operating expenses.	
40	DEPARTMENT OF ADMINISTRATIVE AND	
	FINANCIAL SERVICES	
42	TOTAL	<u>\$127,645</u>
44	TOTAL ALLOCATIONS	<u>\$1,854,804</u>

PART B

Sec. B-1. 5 MRSA §12004-F, sub-§16 is enacted to read:

2 3. Duties of board. The board has the following powers and
4 duties.

6 A. The board may accept and receive transfers from the
8 Passamaquoddy Tribe and gifts, grants, bequests or devises
 from any other source, including funds from the Federal
 Government or any of its political subdivisions.

10 B. The board may enter into any necessary contracts and
 agreements.

12 C. The board shall administer the Rising Tide Regional
14 Development Program and shall contract with the authority
16 for such assistance in administering the program as the
 board requires and the authority agrees to provide.

18 4. Eligibility for loans. Businesses may apply to the
20 board for loans under the program as follows.

22 A. The projects to be financed must be located in the City
24 of Calais, except that, to the extent of funds representing
26 the repayment of loans made from the fund, additional loans
28 may be made to businesses located anywhere in Washington
30 County. Projects must provide significant public benefit in
32 relation to the amount of the loan, as determined by the
34 board. Public benefits include, but are not limited to,
36 increased opportunities for employment, increased capital
 flows, particularly capital flowing in from outside the
 State, increased state and municipal tax revenues,
 rehabilitation of blighted or underutilized areas, enhanced
 quality of life and sense of community, opportunities for
 individual advancement of local residents and provision of
 necessary services. Loan proceeds may be used for any
 appropriate commercial purpose as determined by the board,
 including working capital.

38 B. The board must determine that the borrower is a
40 for-profit or nonprofit commercial entity, including an
42 entity owned by the Passamaquoddy Tribe, and that it is
 creditworthy and reasonably likely to repay the loan.

44 C. The board must determine that the loan is necessary to
46 implementation of the project either because the borrower
48 has insufficient access to other funds or because the
 borrower demonstrates and the board determines that the
 project would not provide the projected public benefits
 without the availability of the loan.

2 D. The board shall give preference to projects that it has
4 determined to be highly sustainable economic development and
6 that will not have a long-term adverse impact on the
8 environment, that result in the addition of value to the
natural resources of Washington County and that increase the
skill levels and economic opportunities for residents of
Washington County.

10 E. The board shall consider the extent to which any project
12 will result in sustainable economic development. In
14 considering a project's sustainability, the board shall
16 consider the following factors: the impact on ecology, the
18 nature and direction of the flow of income from the project
and its impact on the community, the impact of the project
on the quality of life for people in the community, the
impact on the community's infrastructure and the impact on
the community's human capital, present and future.

20 5. Loan terms and conditions. The board may establish
22 prudent terms and conditions for loans, including limits on the
24 amount of loans for any one project and the requirement of
26 adequate collateral for the loans. Loan terms may not exceed 20
28 years in the case of loans primarily secured by real estate, 10
years in the case of loans secured primarily by machinery and
equipment and 7 years for other loans. The interest rate charged
on each loan may not be less than 1% and may not exceed the prime
rate of interest less 1%, as determined by the board.

30 6. Rulemaking. The board shall adopt rules for the
32 implementation of the program established by this subchapter,
including, but not limited to, the establishment of fees that may
be charged for the administration of the program.

34 **§1076. Rising Tide Regional Development Program Fund**

36 1. Creation. The Rising Tide Regional Development Program
38 Fund is created under the jurisdiction and control of the board.
The fund must be deposited with, maintained and administered by
the authority.

40 2. Sources of money. The fund consists of the following:

42 A. All money appropriated or allocated for inclusion in the
44 fund, from whatever source;

46 B. Subject to any pledge, contract or other obligation, all
48 interest, dividends or other pecuniary gains from investment
of money from the fund;

2 Based on projections of \$45,000,000 to \$50,000,000 annually
4 in gaming revenues, after deducting the exemption, regulatory and
6 enforcement costs and payments to the City of Calais and the
8 Rising Tide Regional Development Program Fund, the General Fund
10 will not receive any direct revenue from the casino excise tax
12 for the next 3 to 5 years. Indirectly, the gaming and hotel
14 complex is expected to generate additional sales and income tax
16 revenue from incremental increases of economic activity. The
18 amounts of this incremental revenue can not be estimated at this
20 time.

22 The Department of Public Safety will require additional
24 allocations of \$1,619,558 in fiscal year 1994-95 to provide funds
26 for a State Police Lieutenant position, 2 Sergeant positions, 7
28 Detective positions, a Field Examiner III position, 2 Field
30 Examiner II positions, a Clerk Steno III position and 3 Clerk
32 Typist II positions to provide regulatory and law enforcement
34 services for casino gambling. The Department of the Attorney
36 General will require additional allocations of \$107,601 in fiscal
38 year 1994-95 to provide funds for an Assistant Attorney General
40 and a Senior Legal Secretary to provide legal services in support
42 of the Indian gaming. The Bureau of Taxation within the
44 Department of Administrative and Financial Services will require
46 additional allocations of \$127,645 in fiscal year 1994-95 to
48 provide funds for a Senior Revenue Agent position for the final
50 quarter, computer system modifications and operational expenses.
Ongoing future costs beginning in fiscal year 1995-96 are
estimated to be approximately \$1,600,000.

 In addition to these direct costs, the Department of Public
Safety may require additional General Fund and Highway Fund
resources for increased enforcement in the region. The amounts
will depend on the increased activity in the region, which can
not be determined at this time.

 Revenue required to fund regulatory and law enforcement
activities will be generated by licensee fees and a flat fee
assessed against a tribe that conducts casino gambling. These
fees are deposited into the Casino Tax Account, a dedicated
revenue account. The amount of dedicated revenue generated in
fiscal year 1994-95 is estimated to be \$1,900,000. The dedicated
revenue available in the Casino Tax Account beginning in fiscal
year 1995-96 will be sufficient to provide for the ongoing
regulatory costs.

 These estimates are based on the location approval of one
casino in the City of Calais. If other tribes elect to conduct
Indian gaming in other locations, future revenue estimates and
allocations will be required.

2 This bill establishes several new Class C and Class D
4 crimes. Sentences of more than 9 months and, beginning January
6 1, 1995, more than 12 months imposed for Class C crimes must be
8 served in a state correctional institution. The cost to the
10 State per sentence is \$45,352 based upon an average length of
12 stay of one year and 9 months. The State also must reimburse
14 counties for sentences served in county jails of 9 months or less
and, beginning January 1, 1995, 12 months or less for Class C
crimes. Sentences imposed for Class D offenses must be served in
a county jail. The average cost per sentence for a Class D crime
is \$8,320 based upon an average length of stay of 119 days. The
additional costs to the counties for the housing of each offender
sentenced under this new crime are not reimbursed by the State.

16 The Judicial Department may require additional General Fund
18 appropriations to cover indigent defense costs related to these
20 new cases. The amounts can not be estimated at this time. The
22 additional workload and administrative costs associated with the
24 minimal number of new cases filed in the court system can be
absorbed within the budgeted resources of the Judicial
Department's administrative account. The collection of
additional fines may also increase General Fund revenue by minor
amounts.

26

STATEMENT OF FACT

28

30 This bill is the majority recommendation of the Joint
Standing Committee on Judiciary.

32 The bill allows gaming by the Passamaquoddy Tribe in the
34 City of Calais and establishes a structure for the licensing of
gaming by either the Passamaquoddy Tribe or the Penobscot
36 Nation. The location of any gaming facility must be approved by
the Legislature.

38 Before it may conduct gaming under this bill, a tribe must
40 obtain licenses for a proposed gaming operation, including
approval of its financing, management and professional
42 qualifications and the character and integrity of each of its key
employees. Broad rule-making power over licensing and the gaming
44 itself is given to the State Police to protect the integrity of
the permitted gaming.

46 A casino excise tax is enacted to fund law enforcement and
48 regulatory costs and provide revenues for regional development
and infrastructure improvements. Off-track betting and alcoholic
50 beverage laws are amended to allow off-track betting and retail
liquor sales at licensed Indian gaming premises. The bill

2 provides for a contribution by a licensed gaming operation for
the purpose of funding services related to compulsive gambling
and addictive disorders.

4
6 PART A

8 Specifically, Part A:

10 1. Authorizes off-track betting at a licensed Indian gaming
facility;

12 2. Enacts a new chapter, authorizing and regulating gaming
by the Passamaquoddy Tribe and the Penobscot Nation to provide
14 the revenue necessary to enable self-sufficiency and
self-government for these tribes. A comprehensive state
16 regulatory system is established. Legislative approval of the
location of any gaming facility is required, in addition to other
18 permits required by law.

20 Indian gaming proposals, management contracts, gaming employees
and providers of gaming services must be approved or licensed by
22 the State Police, based upon appropriate background
investigations. Each license is subject to revocation or
24 suspension. Law enforcement is the responsibility of the State
Police and local law enforcement agencies, who are given full
26 access to gaming premises and records. Special gaming crime laws
are enacted. Rule-making authority is given to the State Police,
28 in consultation with the affected tribes. A contribution is
required from a licensee toward the services for the education,
30 prevention, treatment and aftercare of compulsive or addictive
disorders. Before a license may be issued, the Governor must
32 make a finding that projects undertaken in connection with the
license will have a significant, favorable and sustainable
34 economic impact on the region in which it is located. A special
account to fund regulatory, law enforcement and tax
36 administration costs is established, made up of fees from
licenses, the casino excise tax and initial regulatory
38 assessments;

40 3. Exempts licensed Indian gaming facilities from the
Sunday closing laws;

42 4. Makes clear that gaming licensed under this bill is not
44 unlawful gambling under the Maine Criminal Code;

46 5. Makes any tribe licensed to operate a gaming facility
and its gaming operation, however organized, one entity for
48 purposes of campaign finance laws;

2 6. Authorizes the licensing of Indian gaming premises for
3 retail liquor sales and exempts any licensed games from the
4 requirement of a separate amusement permit;

6 7. Approves taking land in the City of Calais into
7 Passamaquoddy Indian Territory, provided that the Calais City
8 Council has also approved the acquisition;

10 8. Establishes a graduated casino excise tax on the gross
11 gaming revenues of Indian gaming operations. Credits are allowed
12 for initial assessment costs and up to \$2,000,000 in
13 contributions to fund infrastructure improvements for the City of
14 Calais and for an economic development fund. The excise tax is
15 administered in the same manner as the sales tax on services, but
16 would not be subject to any reductions for state-municipal
revenue sharing; and

18 9. Provides for tribal ratification of the provision of the
19 bill relating to the incorporation of land into Passamaquoddy
20 Indian Territory as required by the terms of the Maine Indian
21 Claims Settlement Act of 1980, 25 United States Code, Section
22 1725(e)(1).

24 PART B

26 Part B creates the Rising Tide Regional Development Program
27 to provide funds to enhance the economic growth of the City of
28 Calais and Washington County. The program would be operated by a
29 local board and administered through the Finance Authority of
30 Maine.